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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,955	09/26/2003	Eric Ustaris	200209831-1	9436

22879 7590 04/05/2007
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EXAMINER

RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
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2164

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/672,955	Applicant(s) USTARIS, ERIC	
	Examiner Sam Rimell	Art Unit 2164	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 and 15-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 15-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.


Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 and 15-18 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1, 7, 15 and 17: Each of these claims have been amended to recite a “minimally configured” workstation, CP or means. This phrase is vague and indefinite, as there is no clear indication or otherwise generally accepted standard of exactly what would or would not be included in a “minimally configured” computer system.

Additionally, each of claims 1, 7, 15 and 17 have been amended to recite “temporarily transferring” applications or data, which is confusing since there are no recited steps or mechanisms for returning the data back to its sender, erasing the data, or utilizing cache memory mechanisms which would permit the “temporary” condition to actually occur.

Claims 2-6, 8-11, 16 and 18: Depend from claims 1, 7, 15 and 17 respectively.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11 and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Wallach et al. (U.S. Patent 6,292,905).

Claim 1: FIG. 5A illustrates a computing environment having a plurality of servers (54, 56); a file system adapted to store software and data (RAID 80), which are accessible by the file

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servers (54, 56); a workstation (66) coupled to the file servers and additionally coupled to a client (68).

FIG. 5C illustrates a scenario where the server (56) fails. Col. 13, lines 51-55 indicate that any user using one of the terminals can initiate the recovery process. Accordingly, a user at the client computer (68) can make the request for the recovery process to be initiated, which causes the data or programs at file system (80) to be transferred to server (54) (col. 7, lines 55-60). Once the data and programs are directed to server (54), both the client computer (68) and workstation (66) become adapted to access/receive/utilize the data from this server (54), because both are on a LAN link to that functioning server.

Claim 2: The RAID system (80) is a centralized collection of data and software which constitutes a database.

Claim 3: The file server (56) is a database server and includes a database (col. 4, lines 25-30).

Claim 4: FIGS. 5A and 5C illustrate a plurality of servers (54, 56) which implement load balancing (FIG. 5C) when one of the servers fail.

Claim 5: Col. 13, lines 36-38 describe the process where a server implements a heartbeat to determine whether other servers have resumed normal operation.

Claim 6: Col. 4, lines 28-30 describe a protocol referred to as "Netware Directory Services" which constitutes a network file system (NFS) protocol. The AFS system, and combination AFS and NFS system are optionally recited, and thus carry no patentable weight.

Claim 7: See remarks for claim 1

Claim 8: As seen in FIG. 5C, when a failure occurs on the server (56), data transfers from (80) to the server (54) where it can then be accessed by both the workstation (66) and client (68). Data and programs permanently stored on the file (80) are not stored on either the workstation (66) or client (68) until such data or programs are transmitted to them through the server (54).

Claim 9: As stated with respect to claim 7, the workstation (54) will inherently include some control files to control its operation. Since the workstation (54) is a server, those control files would necessarily be controlling a server, and thus would constitute server settings.

Claim 10: In FIG. 5A, the interface between the file server (56) and the workstation (54) is the LAN (local area network).

Claim 11: The file system is a RAID (80). The recitation of a SCSI drive is optionally recited and therefore carries no patentable weight.

Claim 15: FIG. 5A illustrates a file server (56) and means for storing client applications and data (RAID 80--a disk system functionally capable of storing data or applications). The means for retrieving the client applications is the client (68) which is functionally capable of requesting and retrieving data and/or applications and executing applications.

Claim 16: The client computer (68) is functionally capable of retrieving applications at any time so requested by a user and executing applications at any time so requested by a user.

Claim 17: FIG. 5A illustrates a computer (68) which includes a CPU. The computer (68) inherently includes volatile memory, such as RAM or cache memory which communicates with the CPU. The CPU (68) is in communication with an external file system (80) and can retrieve

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information from external file system (80) and execute applications. The CPU can execute client applications by reason that it is located on a client computer.

Claim 18: See remarks for claim 16.

This office action follows the filing of an RCE request and is made non-final.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (571) 272-4084.



Sam Rimell
Primary Examiner
Art Unit 2164